



TRANSACTIONS AND USE TAX LAW

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DISTRICT IMPOSING TRANSACTIONS TAXES

<i>DISTRICT</i>	<i>TRANSACTIONS TAX DISTRICT *</i>	<i>EFFECTIVE DATES</i>	<i>COMBINED TAX RATE</i>
Alameda	BART/ACTI	4-1-87 to Present	8¼%
Avalon	AMHC	10-1-00 to Present	7¾%
Calexico	CXHD	10-1-92 to Present	7¾%
Clearlake	CLPS	7-1-95 to Present	7¾%
Clovis	CCPS	4-1-00	7.55%
Contra Costa	BART/CCTA	4-1-89	8¼%
Del Norte	DNCD	7-1-93 to Present	7¾%
Fresno	FCTA/FCPL	7-1-87 to Present	8¼%
Imperial	IMTA	4-1-90	7¾%
Inyo	INYO	10-1-88	7¾%
Los Angeles	LACT	7-1-82 to Present	7¾%
Los Angeles	LATC	4-1-91 to Present	8¼%
Madera	MCTA	10-1-90	7¾%
Mariposa	MCHA	7-1-00 to Present	7¾%
Napa	NCFP	7-1-98 to Present	7¾%
Nevada	NVPL	10-1-98 to Present	7.375%
Orange	OCTA	4-1-91 to Present	7¾%
Placerville	PLPS	4-1-99 to Present	7½%
Riverside	RCTC	7-1-89	7¾%
Sacramento	STAT	4-1-89	7¾%
San Bernardino	SBER	4-1-90	7¾%
San Diego	SDTC	1-1-89	7¾%
San Francisco	BART/SFTA	4-1-70 to Present	8¼%
San Francisco	SFPF	10-1-93 to Present	8½%
San Joaquin	SJTA	4-1-91 to Present	7¾%
San Mateo	SMCT	7-1-82 to 12-31-88	7¾%
San Mateo	SMCT/SMTA	1-1-89	8¼%
Santa Barbara	SBAB	4-1-90	7¾%
Santa Clara	SCCT	10-1-76 to Present	7¾%
Santa Clara	SCGF	4-1-97 to Present	8¼%
Santa Cruz	SCMT	1-1-79 to Present	7¾%
Santa Cruz	SZPL	4-1-97 to Present	8%
Sebastopol	SEGR	4-1-03 to Present	7.375%
Solano	SLPL	10-1-98 to Present	7.375%
Sonoma	SCOS	4-1-91 to Present	7½%
Stanislaus	STCL	7-1-95 to Present	7.375%
Truckee	TRSR	10-1-98 to Present	7¾%
Tulare	TCTU	10-1-95 to 12-31-97	7¾%
West Sacramento	WSTU	4-1-03	7¾%
Willits	WCRS	10-1-03 to Present	7¾%
Woodland	WOGT	7-1-00 to Present	7¾%

* Agencies administering the Transactions taxes

ACTI = Alameda County Transportation Improvement Authority

AMHC = Avalon Municipal Hospital and Clinic Tax

BART = San Francisco Bay Area Rapid Transit District

CCPS = City of Clovis Public Safety Transactions and Use Tax

CCTA = Contra Costa Transportation Authority

CLPS = City of Clearlake Public Safety Transactions and Use Tax

CXHD = Calexico Heffernan Memorial Hospital District

DNCD = Del Norte County Transactions and Use Tax

FCTA = Fresno County Transportation Authority

FCPL = Fresno County Public Library Transactions and Use Tax

IMTA = Imperial County Transportation Authority

INYO = Inyo County

LACT = Los Angeles County Transportation Commission

LATC = Los Angeles Transportation Commission
MCHA = Mariposa County Healthcare Authority
MCTA = Madera County Transportation Authority
NCFP = Napa County Flood Protection Authority
NVPL = Nevada County Public Library Transactions and Use Tax
OCTA = Orange County Local Transportation Authority
PLPS = Placerville Public Safety Transactions and Use Tax
RCTC = Riverside County Transportation Commission
SBAB = Santa Barbara County Transportation Authority
SBCG = San Benito County Council of Governments
SBER = San Bernardino County Transportation Authority
SBTU = San Benito County General Fund Augmentation
SCCT = Santa Clara County Transit District
SCER = Santa Cruz County Earthquake Recovery Bond
SCGF = Santa Clara County Transactions and Use Tax
SCMT = Santa Cruz Metropolitan Transit District
SCOS = Sonoma County Open Space Authority
SCTA = Santa Clara County Traffic Authority
SDTC = San Diego County Regional Transportation
SFPF = San Francisco County Public Financing Authority
SFTA = San Francisco County Transportation Authority
SJTA = San Joaquin County Transportation Authority
SLPL = Solano County Public Library Transactions and Use Tax
SMTC = San Mateo County Transit District
SMTA = San Mateo Transportation Authority
STAT = Sacramento County Transportation Authority
| SEGR = Sebastopol Transactions and Use Tax
STCL = Stanislaus County Library Transactions and Use Tax
SZPL = Santa Cruz County Public Library
TCTU = Tulare County Transactions and Use Tax
TRSR = Town of Truckee Road Maintenance Transactions and Use Tax
| WSTU = West Sacramento Transactions and Use Tax
WCRS = Willits Transactions and Use Tax
WOGT = Woodland General Revenue Transactions and Use Tax

ANALYSIS OF THE TRANSACTIONS AND USE TAX LAW

Districts imposing taxes. The San Francisco Bay Area Rapid Transit District, the Santa Clara County Transit District, the Santa Cruz Metropolitan Transit District, the Los Angeles County Transportation Commission, the San Mateo County Transit District, the Alameda County Transportation Authority, Fresno County Transportation Authority, the San Diego Regional Transportation Commission, the San Mateo County Transportation Authority, the Inyo County Rural Counties Transactions and Use Tax, the Sacramento Transportation Authority, the Contra Costa Transportation Authority, the Riverside County Transportation Commission, the Imperial County Transportation Authority, the San Bernardino County Transportation Authority, the Santa Barbara County Local Transportation Authority, the San Francisco County Transportation Authority, the Madera County Transportation Authority, the Callexico Heffernan Memorial Hospital District, the Del Norte County Transactions and Use Tax, the San Francisco County Public Financing Authority, the City of Clearlake Public Safety Transactions and Use Tax, the Stanislaus County Library Transactions and Use Tax, the Santa Cruz County Public Library, the Napa County Flood Protection Authority, the Solano County Public Library Transactions and Use Tax, the Nevada County Public Library Transactions and Use Tax, the Town of Truckee Road Maintenance Transactions and Use Tax, the San Joaquin Transportation Authority, the Santa Clara Transactions and Use Tax, the Sonoma County Open Space Authority, the Alameda County Transportation Improvement Authority, the City of Placerville Public Safety Transactions and Use Tax, the City of Clovis Public Safety Transactions and Use Tax, the Fresno County Public Library Transactions and Use Tax, the City of Avalon Municipal Hospital and Clinic Tax, the Mariposa County Healthcare Authority, the Orange County Local Transportation Authority, the City of Woodland General Revenue Transactions and Use Tax, the City of Sebastopol Transactions and Use Tax, the City of West Sacramento Transactions and Use Tax, and the Willits Transactions and Use Tax districts impose transactions and use taxes in conformity with the Transactions and Use Tax Law under the various conditions imposed by the applicable provisions of the Public Utilities Code.

Rate of tax. Unless the principal act of the district provides for a different rate, the rate of the transactions and use taxes is fixed at one-quarter, one-half, or three-quarters of 1 percent of the sales price of tangible personal property sold at retail in the district, or purchased outside the district for use in the district. A credit is allowed against the district use tax for transactions tax reimbursement paid in another district.

Provisions of State Sales and Use Tax Law incorporated. The ordinance imposing the tax must include provisions identical to those of the

State Sales and Use Tax Law the rate of tax and substitution of the name of the district as the taxing agency in place of the state.

Provisions similar to the Uniform Local Sales and Use Tax Law. The tax base is generally the same as the base for uniform local sales and use taxes imposed under Part 1.5 of Division 2 of the Revenue and Taxation Code, except that transactions and use taxes do not apply to the sale, lease, use, etc. of tangible personal property furnished for a price fixed pursuant to a contract entered into prior to the operative date of the district tax, or of property delivered outside the district, and the obligation to collect district use tax is limited to retailers engaged in business within the district. The state and uniform local use tax must be collected by retailers engaged in business anywhere in the state.

Administration. The district is required to contract with the State Board of Equalization to perform all functions in the administration and operation of the ordinance imposing the tax.

Disposition of proceeds. All taxes collected by the board under contract with the districts shall be transmitted to the districts.

Presumption—place of sale. As in the Uniform Local Sales and Use Tax Law, the Transactions and Use Tax Law provides that all retail sales are made at the place of business of the retailer unless the property is delivered by the retailer, his agent, or by a common carrier to an out-of-state destination.

Exemptions:

1. Tax paid in another district. A person subject to a district use tax is entitled to a credit against the tax for a transactions tax paid under any state-administered transactions and use taxes ordinance (Sec. 7262(a)(4)).

2. Aircraft common carriers. Transactions tax does not apply to sales of property to operators of aircraft when the property is to be used or consumed principally outside the county of sale and directly and exclusively in the carriage of persons or property directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of California, the United States, or any foreign government. Use tax does not apply when property purchased by operators of aircraft is used or consumed by them directly and exclusively in the carriage of persons or property directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of California, the United States, or any foreign government.

3. Property furnished pursuant to contract. There are exempted from tax the sale, lease or use of property if the property is sold, leased or purchased for a fixed price obligated under a contract entered into prior to the operative date of the ordinance (Secs. 7261(a)(7) and 7262(a)(6)).

4. State exemptions incorporated. Exemptions contained in the State Sales and Use Tax Law are incorporated into the transactions and use tax ordinances with the exception of the sale or use of property purchased by certain new businesses for use in manufacturing and related activities. Such sales or uses are subject to all applicable transactions and use taxes.

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TRANSACTIONS AND USE TAX LAW

TRANSACTIONS AND USE TAX LAW

(Part 1.6, Division 2, Revenue and Taxation Code *)

Enacted Statutes 1969, Chapter 24; amended Statutes 1969, Chapters 180, 1567; Statutes 1970, Chapters 8, 1115; Statutes 1971, Chapters 825, 1400; Statutes 1972, Chapters 30, 1408; Statutes 1973, Chapter 196; Statutes 1974, Chapters 502, 508, 532, 907, 1204; Statutes 1975, Chapters 678, 1186; Statutes 1976, Chapter 1333; Statutes 1977, Chapter 672; Statutes 1978, Chapter 1211; Statutes 1979, Chapter 5.

- Chapter 1. General Provisions and Definitions. §§ 7251-7253.
- 2. Imposition of Tax. §§ 7261-7267.
- 3. Administration. §§ 7270-7274.
- 4. Refunds of Unconstitutional Taxes. §§ 7275-7279.6.

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

- § 7251. Title.
- § 7251.05. Limitation: City and County of San Francisco. [Repealed.]
- § 7251.1. Limitation: Rate of Tax.
- § 7251.2. Limitation: County of Los Angeles.
- § 7251.3. Limitation: County of San Mateo. [Repealed.]
- § 7251.4. Limitation: City and County of San Francisco. [Repealed.]
- § 7252. "District."
- § 7252.5. "District."
- § 7252.6. "District."
- § 7252.7. "District."
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- § 7252.15. "District."
- § 7252.16. "District."
- § 7252.21. "District."
- § 7252.22. "District."
- § 7252.30. "District."
- § 7253. "Transactions" and "transactor."

7251. Title. This part is known and may be cited as the "Transactions and Use Tax Law."

7251.05. Limitation: City and County of San Francisco. [Repealed by Stats. 1992, Ch. 990, in effect January 1, 1993.]

7251.1. Limitation: Rate of Tax. The combined rate of all taxes imposed pursuant to this part in any county shall not exceed 2 percent. No tax shall be considered in accordance with this part if, upon its adoption, the combined rate will exceed 2 percent.

History.—Added by Stats. 1987, Ch. 786, effective January 1, 1988. Stats. 1991, Ch. 1024, in effect January 1, 1991, substituted "1.5" for "1" after "exceed". Stats. 2003, Ch. 709 (SB 566), in effect January 1, 2004, substituted "2 percent" for "1.5 percent" after "exceed" twice.

7251.2. Limitation: County of Los Angeles. (a) Notwithstanding any other provision of law, in the case where the local transactions and use tax measures specified in subdivision (b) are both approved by the voters of the County of Los Angeles at the November 6, 1990, general election, and both measures are otherwise valid, the rate of each tax thereby imposed shall

* The provisions of this part, except as otherwise noted, became effective November 10, 1969.

be set, for purposes of compliance with the 1 percent limitation of Section 7251.1, at one-fourth of 1 percent. If the limitation of Section 7251.1 is increased, the amount of the increase shall, on the date the increase is operative, be equally apportioned to increase the rate of each tax imposed by the measures specified in subdivision (b), up to a rate not to exceed one-half of 1 percent for each tax.

(b) This section shall apply only to the local transactions and use tax measures, to be submitted to the voters of the County of Los Angeles at the November 6, 1990, general election and popularly known as the following:

(1) “Los Angeles County Transportation Commission 1990 Fast-Track Anti-Gridlock Transit Improvement Proposition.”

(2) “Local Communities Safety Act—Los Angeles County Regional Justice Facilities Financing Agency.”

History.—Added by Stats. 1990, Ch. 1490, in effect January 1, 1991.

7251.3. Limitation: County of San Mateo. [Repealed by Stats. 2003, Ch. 709 (SB 566), in effect January 1, 2004.]

7251.4. Limitation: City and County of San Francisco. [Repealed by Stats. 2003, Ch. 709 (SB 566), in effect January 1, 2004.]

7252. “District.” “District,” as used in this part, means any county, transit district, or rapid transit district authorized, or the Los Angeles County Transportation Commission or the Orange County Transportation Commission if authorized, to impose transaction and use taxes pursuant to this part.

If the measure to adopt the transaction and use tax pursuant to Section 130401 of the Public Utilities Code is not submitted to the electors of the County of Orange on or before December 31, 1985, then this section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1986, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1986, pursuant to Section 9611 of the Government Code, Section 7252 of the Revenue and Taxation Code, as amended by Section 11 of Chapter 652 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

History.—Stats. 1969, p. 460, in effect June 12, 1969, added “Santa Clara County Transit District” and p. 3181, in effect November 10, 1969, added “Southern California Rapid Transit District.” Stats. 1972, Ch. 30, in effect March 23, 1972, deleted “Santa Clara County Transit District.” Stats. 1974, Ch. 502, effective August 14, 1974, Ch. 508, effective August 20, 1974, and Ch. 1204, effective September 23, 1974, respectively added the San Mateo, Orange, and Santa Clara County Transit Districts. Stats. 1975, Ch. 1186, in effect January 1, 1976, deleted individually named districts. Stats. 1976, Ch. 1333, effective January 1, 1977, added “or the Los Angeles County Transportation Commission if authorized.” Stats. 1977, Ch. 672, operative January 1, 1978, added “county,” following “means any.” Stats. 1983, Ch. 1320, in effect January 1, 1984, added “or the Orange County Transportation Commission” before “if” in the first paragraph and added the second paragraph.

Note.—Stats. 1976, Ch. 1333 adds “or the Los Angeles County Transportation Commission if authorized,” to become operative only if the Southern California Rapid Transit District has not been authorized, prior to January 1, 1977, by the electors thereof to impose transactions and use taxes.

Constitutionality of majority vote.—Transportation Commission may impose transactions and use tax with consent of majority of voters, since the Commission was not a “special district” authorized to impose property taxes under Cal. Const. Art. XIII A. *Los Angeles County Transportation Comm. v. Richmond*, (1982) 31 Cal.3d 197.

Special districts require a super majority of voter approval.—A sales tax of one-half of one percent, levied by a county agency to finance the construction of county justice facilities, was a “special tax” under Cal. Const., art. XIII A, § 4, which permits a city, county, or special district to impose a special tax only if two-thirds of the local electorate approves it, even though the Legislature designated the agency’s tax as a “general tax” and the revenues were to be used for the agency’s “general governmental purposes.” *Rider v. County of San Diego* (1991) 1 Cal.4th 1.

Constitutionality of tax adopted by two-thirds vote.—A tax adopted by a special district by two-thirds vote is valid, even though the enabling legislation first required only a majority vote and thereafter was amended to provide that the taxing authority could require a two-thirds vote to adopt a tax ordinance. *Howard Jarvis Taxpayers’ Association v. State Board of Equalization* (1993) 20 Cal.App.4th 1598.

School districts are special districts.—School districts are special districts within the meaning of Proposition 13, and a taxing agency created and controlled by school districts is a special district subject to the two-thirds vote requirement. *Hoogasian Flowers, Inc. v. State Board of Equalization* (1994) 23 Cal.App.4th 1264.

Constitutionality of majority vote.—A district tax adopted by majority vote which specified that the tax would be used for general purposes was valid, and was not a “special tax” just because it was adopted at the same time as an advisory measure adopted by more than two-thirds vote which indicated the voters’ intent that any new tax revenue should be spent on certain projects specified in that advisory measure. *Coleman v. County of Santa Clara* (1998) 64 Cal.App.4th 662.

7252.5. “District.” “District,” as used in this part, also means the Tahoe Transportation District, if authorized to impose transactions and use taxes pursuant to this part.

History.—Added by Stats. 1984, Ch. 513, effective July 17, 1984.

7252.6. “District.” “District,” as used in this part, also means the Santa Clara County Traffic Authority, if authorized to impose transactions and use taxes pursuant to this part.

This section shall remain in effect as long as Division 13 (commencing with Section 140000) of the Public Utilities Code, but shall be repealed upon the repeal of that division.

History.—Added by Stats. 1984, Ch. 446, effective July 16, 1984, effective as long as Public Utilities Code Division 13 (commencing Sec. 140000), but repealed upon repeal of that division.

7252.7. “District.” “District,” as used in this part, also means the San Diego County Regional Transportation Commission, if authorized to impose transactions and use taxes pursuant to this part.

History.—Added by Stats. 1985, Ch. 1576, effective January 1, 1986.

7252.8. “District.” “Districts,” as used in this part, also means a county transportation authority or the Metropolitan Transportation Commission if authorized to impose transactions and use taxes pursuant to this part.

History.—Added by Stats. 1986, Ch. 301, effective July 14, 1986.

7252.9. “District.” “District,” as used in this part, also means any county imposing a tax pursuant to Section 7285.

History.—Added by Stats. 1987, Ch. 1257, in effect January 1, 1988.

7252.10. “District.” “District,” as used in this part, also means the Fresno County Transportation Authority, if authorized to impose transactions and use taxes pursuant to this part.

This section shall remain in effect as long as Division 15 (commencing with Section 142000) of the Public Utilities Code remains in effect, but shall be repealed upon the repeal of that division.

History.—Added by Stats. 1986, Ch. 301, effective July 14, 1986.

7252.10. **“District.”** “District,” as used in this part, also means the Fresno County Transportation Authority, if authorized to impose transactions and use taxes pursuant to this part. This section shall remain in effect as long as Division 15 (commencing with Section 142000) of the Public Utilities Code remains in effect, but shall be repealed upon the repeal of that division.

History.—Added by Stats. 2001, Ch. 474 (SB 685), in effect January 1, 2002.

7252.11. **“District.”** “District,” as used in this part, also means the San Diego County Regional Justice Facility Financing Agency, if authorized to impose transactions and use taxes pursuant to this part.

History.—Added by Stats. 1987, Ch. 1258, in effect January 1, 1988.

7252.12. **“District.”** “District,” as used in this part, also means the San Joaquin County Regional Justice Facility Financing Agency, if authorized to impose transactions and use taxes pursuant to this part.

History.—Added by Stats. 1988, Ch. 1634, in effect January 1, 1989.

7252.13. **“District.”** “District,” as used in this part, also means the Tuolumne County Traffic Authority, if authorized to impose transactions and use taxes pursuant to this part.

This section shall remain in effect as long as Division 15 (commencing with Section 150000) of the Public Utilities Code remains in effect, but shall be repealed upon the repeal of that division.

History.—Added by Stats. 1986, Ch. 1521, effective January 1, 1987.

7252.15. **“District.”** “District,” as used in this part, also means any county regional justice facilities financing agency imposing a tax pursuant to Chapter 13.8 (commencing with Section 26299.000) of Part 2 of Division 2 of Title 3 of the Government Code.

History.—Added by Stats. 1989, Ch. 1335, in effect January 1, 1990.

7252.16. **“District.”** “Districts,” as used in this part, also means a local transportation authority created, or designated to serve as a local transportation authority, pursuant to Division 19 (commencing with Section 180000) of the Public Utilities Code.

History.—Added by Stats. 1987, Ch. 786, in effect January 1, 1988.

7252.21. **“District.”** “District,” as used in this part, also means the San Bernardino County Transportation Commission, if authorized to impose transactions and use taxes pursuant to this part.

History.—Added by Stats. 1987, Ch. 270, in effect July 28, 1987.

7252.22. **“District.”** “District,” as used in this part, also means the Riverside County Transportation Commission, if authorized to impose transactions and use taxes pursuant to this part.

History.—Added by Stats. 1987, Ch. 270, in effect July 28, 1987.

7252.30. **“District.”** “District,” also means the Orange County Regional Justice Facilities Commission, if authorized to impose transactions and use taxes pursuant to this part.

History.—Added by Stats. 1989, Ch. 1335, in effect January 1, 1990.

7253. **“Transactions” and “transactor.”** “Transaction” or “transactions” as used in this part have the same meaning respectively as the words “sale” or “sales,” and the word “transactor” as used in this part has the same meaning as “seller,” as “sale” or “sales” and “seller” are used in Part 1 (commencing with Section 6001) of this division.

CHAPTER 2. IMPOSITION OF TAX

- § 7261. Required provisions of the transactions tax. [Repealed.]
- § 7261. Required provisions of the transactions tax.
- § 7262. Required provisions of the use tax. [Repealed.]
- § 7262. Required provisions of the use tax. [Repealed.]
- § 7262. Required provisions of the use tax. [Repealed.]
- § 7262. Required provisions of the use tax. [Repealed.]
- § 7262. Required provisions of the use tax.
- § 7262.2. Adoption of specified provisions by reference.
- § 7262.5. County of Mendocino.
- § 7262.6. Fresno Metropolitan Projects Authority.
- § 7262.7. County of Stanislaus. [Repealed.]
- § 7263. Place of sale.
- § 7264. Deduction of tax by Controller. [Repealed.]
- § 7264.1. Repayment of tax by Controller. [Repealed.]
- § 7265. Operative date of ordinance.
- § 7267. Unconstitutional or invalid taxes.

7261. Required provisions of the transactions tax. [Repealed by Stats. 1979, Ch. 5, operative January 1, 1984.]

7261. Required provisions of the transactions tax. The transactions tax portion of any transactions and use taxes ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(a) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the district at a rate of one-quarter of 1 percent, or a multiple thereof, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the district.

(b) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state and that an additional transactor’s permit shall not be required if a seller’s permit has been or is issued to the transactor under Section 6067.

(c) A provision that all amendments subsequent to the effective date of this part to Part 1 (commencing with Section 6001) relating to sales tax and not inconsistent with this part shall automatically become a part of the transactions and use taxes ordinance. However, no amendment shall operate so as to affect the rate of tax imposed by the district’s board.

(d) A provision that the amount subject to tax shall not include the amount of sales tax or use tax imposed by the State of California or by any city, city

and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.

(e) A provision that there are exempted from the tax the gross receipts from the sale of tangible personal property, other than fuel and petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(f) A provision that sales of property to be used outside the district which are shipped to a point outside the district, pursuant to the contract of sale, by delivery to that point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point, are exempt from the tax.

For purposes of this section, "delivery" of vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code shall be satisfied by registration to an out-of-district address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence.

"Delivery" of commercial vehicles shall be satisfied by registration to a place of business out of district and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(g) A provision that the sale of tangible personal property is exempt from tax if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. A lease of tangible personal property which is a continuing sale of that property is exempt from tax for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance. For the purposes of this subdivision, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

History.—Added by Stats. 1979, Ch. 5, operative January 1, 1984, Stats. 1984, Ch. 17, effective March 1, 1984, section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1986, changed paragraph designations, substituted "her" for "him" before "agent" in (a)(6), add (b) at end of section. Stats. 1985, Ch. 838, operative January 1, 1986, substituted "1988" for "1986" in subdivision (b). Stats. 1988, Ch. 1029, in effect January 1, 1989, deleted "of this division" following "(commencing with Section 6001)" in paragraphs (2) and (3) of subdivision (a), deleted "of this code" following "Section 6067" in paragraph (2) of subdivision (a), and substituted "Division 3.5 (commencing with Section 9840) of the Vehicle Code" for "Article 2 (commencing with Section 680 of Chapter 5 of Division 3 of the Harbors and Navigation Code" following "undocumented vessels registered under" and added "or her" following "his" in paragraph (6) of subdivision (a). Stats. 1990, Ch. 74 in effect January 1, 1991, added "his or" to paragraph (6) of subdivision (a). Stats. 1991, Ch. 236, in effect July 29, 1991, substituted "one-quarter" for "one-half" after "at a rate of", added ", or a multiple thereof," after "1 percent" in paragraph (1) of subdivision (a); and added ", other than fuel and petroleum products," after "tangible personal property" in paragraph (5) of subdivision (a). Stats. 1992, Ch. 905, in effect September 25, 1992, operative January 1, 1993, deleted subdivision letter "(a)" in the first paragraph; lettered former paragraphs (1), (2), (3), (4), (5), (6), and (7) as subdivisions (a), (b), (c), (d), (e), (f), and (g), respectively; deleted "; provided," after "taxes ordinance" and created the second sentence from the remainder of the

former first sentence, deleted "that" after "However," and "such" before "amendment shall" in the second sentence, of subdivision (c); substituted "the" for "such" after "exclusively in the use of" in subdivision (e); substituted "that" for "such" after "by delivery to" in subdivision (f); substituted "that" for "such" after "continuing sale" in the second sentence of subdivision (g); and deleted former subdivision (b) which stated that "This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988."

7262. Required provisions of the use tax. [Repealed by Stats. 1979, Ch. 5, operative January 1, 1984.]

7262. Required provisions of the use tax. [Repealed by Stats. 1986, Ch. 216, effective June 30, 1986.]

7262. Required provisions of the use tax. [Repealed by Stats. 1986, Ch. 216, effective June 30, 1986.]

7262. Required provisions of the use tax. [Repealed by Stats. 1986, Ch. 216, effective June 30, 1986.]

7262. Required provisions of the use tax. The use tax portion of any transactions and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use, or other consumption in the district of tangible personal property purchased from any retailer for storage, use, or other consumption in the district. The tax shall be at a rate of one-quarter of 1 percent, or a multiple thereof, of the sales price of the property whose storage, use, or other consumption is subject to the tax, and the ordinance shall include provisions in substance as follows:

(a) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to use taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state. The name of the district shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase.

The following additional provisions shall be included:

(1) Except as provided in paragraph (2), a retailer engaged in business in the district shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the district under the authority of the retailer.

(2) "A retailer engaged in business in the district" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the district.

(b) A provision that all amendments to the provisions of Part 1 (commencing with Section 6001) relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance. However, no amendment shall operate so as to affect the rate of tax imposed by the district's board.

(c) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the amount of any state-administered transactions or use tax.

(d) A provision that any person subject to a use tax under an ordinance adopted pursuant to this part shall be entitled to credit against that tax or any transactions tax, or to reimbursement for a transactions tax, paid to a district or retailer in a district imposing a transactions and use tax pursuant to this part.

(e) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft, and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government, is exempt from the use tax.

(f) A provision that the storage, use, or other consumption in the district of tangible personal property is exempt from the tax if the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. The possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of the property is exempt from tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to the operative date of the ordinance. For purposes of this subdivision, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

History.—Added by Stats. 1986, Ch. 216, effective June 30, 1986. Stats. 1987, Ch. 308, operative January 1, 1988, deleted first phrase of second paragraph of subdivision (1). "An additional provision shall be included that" and substituted "The following additional provisions shall be included: (A) Except as provided in subparagraph (B)", and added subparagraph (1)(B). Stats. 1988, Ch. 1029, in effect January 1, 1989, substituted "Division 3.5 (commencing with Section 9840) of the Vehicle Code" for "Article 2 (commencing with Section 680) of Chapter 5 of Division 3 of the Harbors and Navigation Code" following "vessels registered under" in subparagraph (B) of paragraph (1) of subdivision (a). Stats. 1991, Ch. 236, in effect July 29, 1991, substituted "one-quarter" for "one-half" after "at a rate of", added ", or a multiple thereof," after "1 percent" in subdivision (a) and added ", other than fuel or petroleum products," after "tangible personal property" in paragraph (5) of subdivision (a). Stats. 1992, Ch. 905, in effect September 25, 1992, operative January 1, 1993, deleted subdivision letter "(a)" in the first paragraph; lettered former paragraphs (1), (2), (3), (4), (5), and (6) as subdivisions (a), (b), (c), (d), (e), and (f), respectively; substituted "paragraph (2)" for "subparagraph (B)" after "Except as provided in" in paragraph (1) of subdivision (a); lettered former subparagraphs (A) and (B) of subdivision (a) as paragraphs (1) and (2), respectively, in subdivision (a); and deleted former subdivision (b) which stated that "This section shall become operative on January 1, 1988."

7262.2. Adoption of specified provisions by reference. The transactions and use tax ordinance of a district adopted pursuant to this part, shall be deemed to adopt by reference the provisions of Sections 7261 and 7262, as now in effect or as later amended, which are required to be included in the ordinance, regardless of whether or not the ordinance was adopted or amended prior to or after the effective date of this section.

History.—Added by Stats. 1985, Ch. 591, effective January 1, 1986.

7262.5. County of Mendocino. In addition to the tax levied pursuant to Part 1.5 (commencing with Section 7200), the County of Mendocino may impose a transactions and use tax by the adoption of an ordinance in accordance with this part if each of the following conditions are met:

(a) The ordinance imposing the tax is submitted to and approved by the voters of the county in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(b) The tax is imposed at a rate of $\frac{1}{2}$ or 1 percent and for a period not to exceed five years.

(c) The revenues collected from the tax may be used only for the purpose of funding county library programs and operations.

History.—Added by Stats. 1987, Ch. 1323, in effect January 1, 1988.

7262.6. Fresno Metropolitan Projects Authority. In addition to the tax levied pursuant to Part 1.5 (commencing with Section 7200), the Fresno Metropolitan Projects Authority may impose a transactions and use tax by adoption of an ordinance in accordance with this part if each of the following conditions are met:

(a) The ordinance imposing the tax is submitted to and approved by the voters of the adopted sphere of influence of the City of Fresno, as identified in Resolution Number AD-89-5 of the Fresno County Local Agency Formation Commission, as revised May 2, 1990, in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(b) The tax is imposed at a rate of one-tenth of 1 percent and for a period not to exceed 20 years.

(c) The revenues collected from the tax may be used only for funding purposes as described in Title 7.91 (commencing with Section 68056) of the Government Code.

(d) The State Board of Equalization charges the authority an amount for its services in administering the transactions and use tax in accordance with Section 7273, with allowable adjustments, if necessary, for the board's administration of the tax due to unique circumstances of the authority relating to its tax rate and its boundaries.

History.—Added by Stats. 1992, Ch. 1067, in effect September 29, 1992.

7262.7. County of Stanislaus. [Repealed by Stats. 2003, Ch. 605 (SB 1060), in effect January 1, 2004.]

7263. Place of sale. For the purposes of a transactions tax imposed by an ordinance adopted pursuant to this part, all retail transactions are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a transactions tax imposed by an ordinance adopted pursuant to this part shall be determined under rules and regulations to be prescribed and adopted by the board.

7264. Deduction of tax by Controller. [Repealed by Stats. 1989, Ch. 1027, in effect September 29, 1989, operative January 1, 1990.]

7264.1. Repayment of tax by Controller. [Repealed by Stats. 1989, Ch. 1027, in effect September 29, 1989, operative January 1, 1990.]

7265. Operative date of ordinance. No ordinance adopted pursuant to this part shall be operative on other than the first day of a calendar quarter, or prior to the first day of the first calendar quarter, commencing more than 110 days after the adoption of the ordinance.

History.—Added by Stats. 1974, Ch. 532, effective August 23, 1974. Stats. 1989, Ch. 274, in effect January 1, 1990, deleted "(a) Except as otherwise provided in subdivision (b)," before "No ordinance", substituted "110" for "120", and deleted subdivision (b).

7267. Unconstitutional or invalid taxes. (a) Except as provided in Chapter 4 (commencing with Section 7275), there shall be no recovery from the state for the imposition of any unconstitutional or otherwise invalid tax that is levied in conformity with this part.

(b) If a final and nonappealable decision of a court of competent jurisdiction determines that a district transactions and use tax is unconstitutional or otherwise invalid, the district, the county, or the city, as the case may be, shall transfer to the board the revenues derived from the unconstitutional or invalid transactions and use taxes necessary to reimburse claimants for the unconstitutional or invalid transactions and use taxes paid, including interest allowed under Section 6907. The board shall deposit these revenues in a segregated impound account in the Retail Sales Tax Fund, as described in Section 7275, and shall administer any refunds necessitated by the court's decision in accordance with the guidelines set forth in Chapter 4 (commencing with Section 7275) to the extent feasible and practical.

(c) After the refund process described in subdivision (b) is completed, any revenue from an unconstitutional or otherwise invalid tax described in subdivision (a) that is paid to the board shall be transmitted by the board to the district or its successor in accordance with Section 7271. However, unless the ordinance specifies otherwise, if at the time the board is making those

transmittals the district that imposed the tax has no successor, or has disbanded, dissolved, or is otherwise no longer functioning, the board shall transmit those revenues in the following manner:

(1) If the tax levied by the district was imposed on a countywide basis, the revenues shall be transmitted to the county's general fund.

(2) If the tax levied by the district was imposed on a citywide basis, the revenues shall be transmitted to the city's general fund.

(3) If the tax levied by the district was imposed on a basis other than in paragraph (1) or (2), the revenues shall be transmitted to the general fund of each taxing jurisdiction located wholly within the district, based on each taxing jurisdiction's proportionate share of revenue from taxes imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law allocated during the prior calendar year.

(d) The district, or any entity that participated in the formation of the district, shall reimburse the board for and hold the board harmless from any and all costs, losses, or refunds of any kind whatsoever, including preparatory costs incurred prior to implementation of the tax.

(e) In the case of any claim for refund of the transactions and use tax imposed by the San Francisco Educational Financing Authority, which was determined to be unconstitutional by the court in *Hoogasian Flowers, Inc. v. State Bd. of Equalization*, 23 Cal. App. 4th 1264, payment of any of those claims for refund shall be made from the revenues derived from the unconstitutional transactions and use tax collected by and in the possession of the board. When those funds and any other revenues derived from the unconstitutional tax still in the possession of the San Francisco Educational Financing Authority, the City and County of San Francisco, the San Francisco Unified School District, or the San Francisco Community College District are exhausted, any remaining payments of those claims for refund shall be paid from funds of the San Francisco Unified School District and the San Francisco Community College District which benefited from the illegal tax. The remaining payments shall be based on the method by which the San Francisco Educational Financing Authority distributed the proceeds of the tax to the San Francisco Unified School District and the San Francisco Community College District.

History.—Added by Stats. 1995, Ch. 495, in effect January 1, 1996.

Note.—Sections 4 and 5 of Ch. 495, Stats. 1995, provide the following:

SEC. 4. The Legislature finds and declares that since transactions and use taxes are imposed by the taxing districts and not the state, the state has no interest in, and should not be a party in, any action to determine the validity of such a tax. It is the intent of the Legislature that the state not be made a party to those actions. However, where a refund claimant is contesting the application of sales or use taxes in general to a particular transaction, the claim should be filed with the State Board of Equalization under the normal refund rules, notwithstanding the fact one of the taxes the application of which is contested is a transactions or use tax which is alleged to be invalid.

SEC. 5. (a) It is the intent of the Legislature that this act be applied retroactively to the fullest extent permitted by the federal and state Constitutions.

(b) The Legislature finds and declares that when it enacted the second paragraph of Section 7270 (designated by this act as subdivision (b) of Section 7270) of the Revenue and Taxation Code, it intended to prevent the State of California from being made liable for refunds of any transactions and use tax which is declared to be unconstitutional or otherwise invalid. The language of that provision as enacted can, however, be interpreted as having the state assume primary

liability for those refunds with the district reimbursing the state. It is the intent of the Legislature in enacting subdivision (a) of Section 7267 of the Revenue and Taxation Code to implement its original intent in this matter and clarify existing law that there shall be no recovery from the state for the imposition of any illegal tax except as specifically otherwise provided by statute. It is intended that the district which levied the illegal tax shall be solely liable for such refunds.

(c) (1) The Legislature enacted Chapter 1060 of the Statutes of 1993 in order to provide a remedy to persons who bore the economic burden of an illegal district tax in the situation where the revenues derived therefrom had been collected by the State Board of Equalization and distributed to the taxing district but had been retained by the district pending the outcome of the litigation over the validity of the latter's tax. The Legislature finds and declares that current law does not require the district to retain those revenues during the litigation and where the district does not do so there is no effective remedy for either taxpayers or those who bore the economic burden of the tax.

(2) The United States Supreme Court, in the case of *McKesson v. Division of Alc. Bev.*, 110 L. Ed 2d 17, declared that the due process clause of the Fourteenth Amendment to the United States Constitution requires that a taxpayer who may only challenge the validity of a tax through a postpayment refund action must be provided meaningful retrospective relief for taxes already paid pursuant to a tax scheme ultimately found unconstitutional. It is the intent of the Legislature in adding subdivision (c) to Section 7270 of the Revenue and Taxation Code to ensure that effective relief is available, notwithstanding the provisions of Section 6931 of the Revenue and Taxation Code.

CHAPTER 3. ADMINISTRATION

- § 7270. Required contract with the board.
- § 7270.5. Actions or proceedings filed: limitation.
- § 7271. Transmittal of taxes to the district.
- § 7271.03. Transmittals: Santa Cruz Metropolitan Transit District.
- § 7271.05. Reduction in transmittals: Santa Cruz Metropolitan Transit District.
- § 7271.1. Local agencies: refunds.
- § 7272. Preparation charges.
- § 7272.3. O.C.T. District contract; preparation charges. [Repealed.]
- § 7272.5. S.C.C.T. District contract; preparation charges. [Repealed.]
- § 7272.5. S.C.C.T. District contract; preparation charges. [Repealed.]
- § 7272.5. S.M.C.T. District contract; preparation charges. [Repealed.]
- § 7272.7. S.C.R.T. District contract; preparation charges. [Repealed.]
- § 7272.8. District contracts generally; preparation charges. [Repealed.]
- § 7273. Charges for administering the taxes.
- § 7273.1. Charges for administering the taxes.
- § 7273.2. Annual report of costs.
- § 7274. Information to retailers.

7270. Required contract with the board. (a) Prior to the operative date of any ordinance imposing a transactions and use tax pursuant to this part, the district shall contract with the board to perform all functions incident to the administration and operation of the ordinance. If the district has not contracted with the board prior to the operative date of its ordinance, it shall nevertheless so contract and, in that case, the operative date shall be the first day of the first calendar quarter following the execution of the contract.

(b) The contract shall contain a provision that the district shall reimburse the board for and hold the board harmless from any and all costs, losses, or refunds of any kind whatsoever.

(c) The contract shall also contain a provision that, in the event that a legal action is commenced challenging the validity of the tax in its entirety, as opposed to its application to an individual taxpayer, the district shall place the tax proceeds into an interest-bearing escrow account until the legality of the tax is finally resolved by a final and nonappealable decision rendered by a court of competent jurisdiction. That provision shall be enforceable by any interested person in a proceeding for a writ of mandate.

(d) The district shall be entitled to indemnity for any and all costs, losses, or refunds from any entity, except the state, that participated in the imposition of the tax. For the purposes of this part, “participated” means any involvement in procuring the legislation that authorized the tax, or in enacting or administering the ordinance imposing the tax. Any organization that is a member of the legislative body of the district imposing the tax has participated in the imposition of the tax within the meaning of this section.

History.—Added by Stats. 1974, Ch. 532, effective August 23, 1974. Stats. 1983, Ch. 337, in effect January 1, 1984, substituted “has not” for “shall not have” after “district” in the second sentence of the first paragraph and added the second paragraph. Stats. 1995, Ch. 495, in effect January 1, 1996, added subdivision letter designation (a) before first paragraph; added subdivision letter (b) before second paragraph, and deleted “if a final judgment is entered in a court of competent jurisdiction holding that the ordinance imposing the transactions and use tax is unconstitutional or otherwise invalid” after “whatsoever” therein; and added subdivisions (c) and (d).

Note.—See legislative findings, declarations, and intent of Ch. 495, Stats. 1995 following Section 7267.

7270.5. Actions or proceedings filed: limitation. Any action or proceeding filed on the basis that a tax ordinance provided for in this part or Part 1.7 (commencing with Section 7280) or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied on the basis that the tax ordinance is unconstitutional or otherwise invalid and filed for the sole purpose of contesting the validity of the district transactions and use tax, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. The state shall not be made a party to the action or proceeding. That action shall not be filed more than 60 days after the approval of the enabling ordinance by the voters unless the authorizing legislation specifies a longer period. If no action is filed within that period, the tax, the bonds, and all proceedings in relation thereto, including the adoption and approval of the ordinance, shall be held to be valid and in every respect legal and uncontestable.

History.—Added by Stats. 1995, Ch. 495, in effect January 1, 1996.

Note.—See legislative findings, declarations, and intent for Ch. 495, Stats. 1995, following Section 7267.

7271. Transmittal of taxes to the district. All transactions and use taxes collected by the board pursuant to contract with the district shall be transmitted by the board to the district periodically as promptly as feasible. The transmittals shall be made at least twice in each calendar quarter.

7271.03. Transmittals: Santa Cruz Metropolitan Transit District.
(a) With regard to transmittals pursuant to Section 7271 to the Santa Cruz Metropolitan Transit District, the State Board of Equalization shall calculate the difference between the transmittals to that district for the fourth calendar quarter of 1989 and the first calendar quarter of 1990 and the corresponding transmittals for the fourth calendar quarter of 1988 and the first calendar quarter of 1989. The State Board of Equalization shall, on or before January 1, 1991, notify the Santa Cruz Metropolitan Transit District of the amounts of the differences and certify those amounts to the Controller.

(b) Within 10 days after the first notification pursuant to subdivision (a), the governing body of the Santa Cruz Metropolitan Transit District, if that district has received total amounts less than corresponding amounts received

for the the fourth calendar quarter of 1988 and the first calendar quarter of 1989, may request the Controller to transmit, from the Earthquake Disaster Revenue Stabilization Assistance Fund established pursuant to Section 7204.03, the amounts of the differences, provided that the total amount requested is no less than ten thousand dollars (\$10,000). Requests submitted pursuant to this subdivision shall be submitted on or before December 1, 1991, and shall include findings by the district's governing body that the amounts of the differences are directly attributable to the earthquake of October 17, 1989.

(c) Within 10 days of receiving a request pursuant to subdivision (b), the Controller shall transmit the requested amount.

(d) Notwithstanding any other provision of this section, if the Controller determines that the amount of sales tax revenue received by the State of California in the fourth calendar quarter of 1989 and the first calendar quarter of 1990 is less than the amount received in the corresponding quarters of the immediately preceding calendar year, the Controller shall reduce the amounts transmitted pursuant to subdivision (c) in proportion to that reduction.

(e) This section shall remain in effect only until January 1, 1992, and as of that date is repealed.

History.—Added by Stats. 1990, Ch. 37, (1X), in effect September 25, 1990.

7271.05. Reduction in transmittals: Santa Cruz Metropolitan Transit District. (a) On or before March 1, 1992, the Controller shall calculate the total amount that has been transmitted to the Santa Cruz Metropolitan Transit District pursuant to Section 7271.03, and provide those calculations to the State Board of Equalization.

(b) Beginning on July 1, 1992, and for each year thereafter to July 1, 1997, inclusive, the State Board of Equalization shall reduce the amounts that would otherwise be transmitted to the Santa Cruz Metropolitan Transit District pursuant to Section 7271 by an amount sufficient to recover one-fifth of the amount transmitted to that district pursuant to subdivision (c) of Section 7271.03, plus interest after January 1, 1992, or the other applicable date, at the annual rate of 3½ percent. The board shall distribute the reductions in transmittals over the fiscal year in the manner it determines to be least disruptive to the district.

(c) The board shall transmit the amounts withheld from the Santa Cruz Metropolitan Transit District and the interest amounts pursuant to subdivision (b) to the Special Fund for Economic Uncertainties.

History.—Added by Stats. 1990, Ch. 37, (1X), in effect September 25, 1990.

7271.1. Local agencies: refunds. (a) For purposes of this section:

(1) "Quarterly taxes" means the total amount of transactions and use taxes transmitted by the board to a district for a calendar quarter.

(2) "Refund" means the amount of transactions and use taxes deducted by the board from a district's quarterly taxes in order to pay the district's share of a transactions and use tax refund due to one taxpayer.

(3) “Offset portion” means that portion of the refund which exceeds the greater of fifty thousand dollars (\$50,000) or 20 percent of the district’s quarterly taxes.

(b) Except as provided in subdivision (c), if the board has deducted a refund from a district’s quarterly taxes which includes an offset portion, then the following provisions apply:

(1) Within three months after the board has deducted an offset portion, the district may request the board to transmit the offset portion to the district.

(2) As promptly as feasible after the board receives the district’s request, the board shall transmit to the district the offset portion as part of the board’s periodic transmittal of transactions and use taxes.

(3) The board shall thereafter deduct a pro rata share of the offset portion from future transmittals of transactions and use taxes to the district over a period to be determined by the board, but not less than two calendar quarters and not more than eight calendar quarters, until the entire amount of the offset portion has been deducted.

(c) The board shall not transmit the offset portion of the refund to the district if that transmittal would reduce or delay either the board’s payment of the refund to the taxpayer or the board’s periodic transmittals of transactions and use taxes to other districts.

History.—Added by Stats. 1989, Ch. 274, in effect January 1, 1990.

7272. Preparation charges. The district shall pay to the board its costs of preparation to administer and operate the transactions and use taxes ordinance. The district shall pay such costs monthly as incurred and billed by the board. Such costs include all preparatory costs, including costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing of forms, developing instructions for the board’s staff and for taxpayers, and other necessary preparatory costs which shall include the board’s direct and indirect costs as specified by Section 11256 of the Government Code. Any disputes as to the amount of preparatory costs incurred shall be resolved by the Director of Finance, and his or her decision shall be final. The maximum amount of all preparatory costs to be paid by the district shall not, in any event, exceed one hundred seventy-five thousand dollars (\$175,000).

History.—Stats. 1974, Ch. 532, effective August 23, 1974, revised the section to require the district to pay preparation costs rather than requiring such a term in the administration contract. Stats. 1983, Ch. 337, in effect January 1, 1984, added “or her” after “his” in the fourth sentence and substituted “one hundred seventy-five thousand dollars (\$175,000)” for “one-hundred twenty-five thousand dollars (\$125,000)” after “exceed” in the fifth sentence.

7272.3. O.C.T. District contract; preparation charges. [Repealed by Stats. 1975, Ch. 1186, in effect January 1, 1976.]

7272.5. S.C.C.T. District contract; preparation charges. [Repealed by Stats. 1972, Ch. 30, in effect March 23, 1972.]

7272.5. S.C.C.T. District contract; preparation charges. [Section 7272.5, as added by Stats. 1974, Ch. 1204, repealed by Stats. 1975, Ch. 1186, in effect January 1, 1976.]

7272.5. S.M.C.T. District contract; preparation charges. [Section 7272.5, as added by Stats. 1974, Ch. 502, repealed by Stats. 1975, Ch. 1186, in effect January 1, 1976.]

7272.7. S.C.R.T. District contract; preparation charges. [Repealed by Stats. 1974, Ch. 532, effective August 23, 1974.]

7272.8. District contracts generally; preparation charges. [Repealed by Stats. 1974, Ch. 532, effective August 23, 1974.]

7273. Charges for administering the taxes. In addition to the amounts otherwise provided for preparatory costs, the board shall charge an amount for its services in administering the transactions and use tax determined by the board, with the concurrence of the Department of Finance, as follows:

(a) Beginning with the 1993–94 fiscal year, the amount charged shall be based on the total special taxing jurisdiction costs reflected in the annual Budget Act. This amount comprises the categories of direct, shared, and central agency costs incurred by the board and shall include the following:

(1) The amount charged to each entity shall be based on the recommendations incorporated in the March 1992, report by the Auditor General entitled “The Board of Equalization Needs To Adjust Its Model For Setting Reimbursement Rates For Special Tax Jurisdictions.”

(2) The amount charged may be adjusted in the current fiscal year to reflect the difference between the board’s budgeted costs and any significant revised estimate of costs. Any adjustment shall be subject to budgetary controls included in the Budget Act. Prior to any adjustment, the Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee not later than 30 days prior to the effective date of the adjustment.

(3) For the 1995–96 fiscal year and each fiscal year thereafter, the amount charged shall be adjusted to reflect the difference between the board’s recovered costs and the actual costs incurred by the board during the fiscal year two years prior.

(b) The board shall, by June 1 of each year, notify districts of the amount that it anticipates will be assessed for the next fiscal year. The districts shall be notified of the actual amounts that will be assessed within 30 days after enactment of the Budget Act for that fiscal year.

(c) The amount charged a transactions and use tax district that becomes operative during the fiscal year shall be estimated for that fiscal year based on that district’s proportionate share of direct, indirect, and shared costs.

(d) The amounts determined by subdivision (a) shall be deducted in equal amounts from the quarterly allocation of taxes collected by the board for a given district.

(e) For the 1998–99 fiscal year and each fiscal year thereafter, the amount charged to a district by the board shall not exceed the lesser of the amount as a percentage of revenue the board would have charged for the 1998–99 fiscal

year, or the first full year of a new district's operations under this section as it read prior to the amendments made by the act adding this subdivision, or the following percentages:

(1) For districts imposing a transactions and use tax of one-half of 1 percent or greater, the amount charged by the board shall not exceed 1.5 percent, for the 1998-99 fiscal year and each fiscal year thereafter.

(2) Beginning with the 1998-99 fiscal year and in each fiscal year thereafter, the amount charged to a district imposing a transactions and use tax ranging from one-quarter of 1 percent up to but less than one-half of 1 percent shall not exceed 3 percent.

(3) Beginning with the 1998-99 fiscal year and in each fiscal year thereafter, the amount charged to a district imposing a transactions and use tax below one-quarter of 1 percent shall not exceed 5 percent.

History.—Stats. 1969, p. 461, in effect June 12, 1969, revised the original language of the first two lines of this section, as enacted by Ch. 24, in effect November 10, 1969, by adding “otherwise” and deleting “in the preceding section” following “provided”. Stats. 1971, p. 2790, operative July 1, 1972, provided that the board shall charge 0.82 percent of all district taxes for administering the transactions and use tax ordinance. Stats. 1985, Ch. 1091, effective January 1, 1986, added “except as provided in Section 7273.1” after “for preparatory costs, the board shall charge,”. Stats. 1990, Ch. 1077, in effect January 1, 1991, added “Effective July 1, 1991”, moved “except as provided in Section 7273.1” from after “charge” to after “costs”, deleted “district” after “7273.1, the”, added “following” after “charge the”, added “its” before “services”, added colon after “tax”, deleted “ordinance of the district 0.82” after colon, added subdivision (a) and “For any district . . . , 0.79” and substituted “July 1, 1991” for “July 1, 1972” in subdivision (a); added subdivisions (b) and (c); added “(d) The”, added “specified in subdivisions (a), (b), and (c)”; and substituted “a given” for “the” in subdivision (d). Stats. 1993, Ch. 75, in effect June 30, 1993, deleted “Effective July 1, 1991,” before “In addition”, substituted “In” for “in” before “addition”, deleted “except as provided in Section 7273.1,” after “costs”, substituted “an amount” for “the following” after “charge”, deleted former subdivisions (a), (b), (c), and (d) which specified percentages of the tax revenue that the Board was required to charge local entities as the cost of the Board’s services, and added entire text of subdivisions (a) through (d). Stats. 1998, Ch. 890, in effect January 1, 1999, added comma after “board” in the first paragraph; added “, by June 1 of each year,” after “board shall” and deleted “by June 1” after “notify districts” in subdivision (b); substituted “that” for “which” after “tax district” in subdivision (c); and added subdivisions (e) and (f). Stats. 1999, Ch. 865, (SB 1302), in effect January 1, 2000, added “amount as a” after “lesser of the”, added “of revenue” after “percentage”, added “, or the first . . . operations” after “fiscal year”, and deleted “of the total transactions and use tax revenue collected by the board for that district for each fiscal year” after “following percentages” in subdivision (e); substituted “ranging from . . . one-half” for “of one quarter” after “and use tax” in paragraph (2), and substituted “below one-quarter . . . 5 percent” for “of one-eighth of 1 percent shall not exceed 5 percent” after “and use tax” in subparagraph (3) of subdivision (e); and substituted “1999” for “1998” after “March 1” and “2000” for “1999” after “January 1” in subdivision (f). Stats. 2001, Ch. 745 (SB 1191), in effect October 12, 2001, deleted former subdivision (f) which provided, “The board shall report to the Chairperson of the Senate Committee on Budget and Fiscal Review and the Chairperson of the Assembly Committee on Budget by March 1, 1999, and January 1, 2001, on the actions the board will take to adjust its costs commensurate with the changes in reimbursements effected by this bill. The report shall analyze the impact of the reduced reimbursements on the board’s budget and how the board’s actions may impact its revenue-producing activities. The board may not reduce positions that are responsible for the generation or receipt of revenues, including, but not limited to, positions in the audits and compliance programs.”

7273.1. Charges for administering the taxes. Notwithstanding Section 7273, the board shall charge the Santa Clara Traffic Authority and the Santa Clara Transit District each 0.82 percent of all district taxes available for distribution to the district on and after July 1, 1986, and prior to July 1, 1991. Those amounts shall be deducted from the taxes collected by the board for each district.

This section shall remain in effect only until July 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1991, deletes or extends that date.

History.—Added by Stats. 1985, Ch. 1091, effective January 1, 1986. Stats. 1990, Ch. 1077, in effect January 1, 1991, substituted “Notwithstanding Section 7273” for “Effective July 1, 1986” and substituted “0.82 percent . . . that date” for “one-half of the amount calculated in accordance with the formula specified in Section 7273”.

7273.2. Annual report of costs. The board shall annually prepare a report showing the amount of both reimbursed and unreimbursed costs incurred by it in administering transactions and use taxes imposed by districts pursuant to this part.

History.—Added by Stats. 1987, Ch. 786, effective January 1, 1988.

7274. Information to retailers. The board shall make available to all licensed vehicle, vessel, and aircraft dealers who hold seller's permits in this state information concerning the cities and counties located within districts which impose transactions and use tax ordinances and the applicable tax rates in those cities and counties.

History.—Added by Stats. 1987, Ch. 308, operative January 1, 1988.

CHAPTER 4. REFUNDS OF UNCONSTITUTIONAL TAXES *

- § 7275. Unconstitutional taxes levied; disposition of revenues.
- § 7276. Tax credit procedures.
- § 7277. Claim for refund procedures.
- § 7279. Interest on refunds; board's costs.
- § 7279.5. Court review and procedures.
- § 7279.6. Arbitrary implementation—reviewable by writ.

7275. Unconstitutional taxes levied; disposition of revenues.

(a) Where a tax levied in a county in conformity with Part 1.6 (commencing with Section 7251) has been determined to be unconstitutional in a final and nonappealable decision of a court of competent jurisdiction and the revenues derived from that unconstitutional tax are paid to the board and held in an impound account, the board shall administer refunds and reimbursements of those illegally collected taxes in accordance with the provisions of this chapter.

(b) (1) Notwithstanding any other provision of law, on and after the effective date of the act adding this chapter, the procedures for refund or reimbursement of unconstitutional taxes contained in this chapter constitute the sole remedies for refund or reimbursement of illegal taxes as described in subdivision (a).

(2) Claims for refund of illegally collected taxes as described in subdivision (a) that were filed prior to the effective date of the act adding this chapter that have not been paid before that date shall be processed and paid to purchasers in accordance with the provisions of this chapter, regardless of whether the purchaser or the retailer filed the claim. Nothing in the act adding this chapter shall be construed to require refile of those previously filed claims for refund.

(c) Notwithstanding the provisions of Section 6902, the period of limitations specified in subparagraph (B) of paragraph (3) of subdivision (b) of Section 7277 shall apply to any claims for refund that are payable from any revenues paid to the board and held in an impound account which are derived from the unconstitutional tax.

* Chapter 4 was added by Stats. 1993, Ch. 1060, effective October 11, 1993.

(d) No later than 10 days from the date the decision determining the contested tax to be unconstitutional is final and nonappealable, the court shall order the entity that levied the unconstitutional tax to pay the impounded revenues to the board which shall immediately deposit them in a segregated impound account in the Retail Sales Tax Fund. The moneys so deposited, together with any interest thereon, shall be used as follows:

(1) To satisfy in full all valid claims for refund filed prior to the effective date of the act adding this chapter, in amounts as verified by audit of the records of the board.

(2) To fund a reserve account, in an amount to be determined by the board, with the approval of the Department of Finance, to fund refund and reimbursement of moneys from illegally collected taxes as described in subdivision (a), liability for which arises out of audit assessments occurring after the date of the act adding this chapter.

(A) Moneys derived from the unconstitutional tax described in subdivision (a) received by the board after the date the board receives the impounded revenues as provided in subdivision (d) shall be deposited in the reserve account provided by this subdivision.

(B) This reserve account shall be maintained for 10 years from the date the board deposits the revenues in the segregated account in the Retail Sales Tax Fund provided by this subdivision.

(i) Any amount deposited in the reserve account shall be used to pay other refunds or reimbursements to taxpayers within 12 months of deposit. Amounts not used for refunds or reimbursements within 12 months of deposit shall be transferred to the county in which the unconstitutional tax was levied for deposit in that county's general fund.

(ii) Upon termination of the 10-year period, any moneys remaining in this segregated account shall be transferred to the county in which the unconstitutional tax was levied for deposit in that county's general fund.

(3) To satisfy valid claims for refund filed after the effective date of the act adding this chapter as described in Section 7277.

(4) To reimburse the board's actual and reasonable costs of administering the refunds and reimbursements provided in this chapter, as approved by the Department of Finance.

(5) To reimburse losses resulting from the tax credit provided by Section 7276. In reimbursing those losses, the board may use its best estimates, based on historical allocation information, as to the amount of those losses. Any entity receiving the impounded moneys rather than the taxes being credited shall suffer no impairment of revenues and the timing and receipt as well as the amount of revenues shall not be adversely affected by the credit. Any security arrangement that the board has with any entity receiving impounded moneys, including, but not limited to, provisions requiring the transfer of revenues to a bond trustee, shall remain in full force and effect during the period of the credit, and any pledge of tax revenues shall apply with equal

force and effect to the impounded moneys distributed to those entities by the board in lieu of the credited tax revenues, without any further action required by the entity of the board.

(e) Any impounded moneys subject to refund or reimbursement pursuant to this chapter that are not used for that purpose or not deposited in the reserve account described in subdivision (d) shall be transmitted to the county in which the unconstitutional tax was levied for deposit in that county's general fund.

(f) For the purposes of bringing an action against the board for recovery of the whole or any part of the amount claimed as an overpayment of unconstitutional taxes as described in subdivision (a), the six-month period provided in Section 6934 shall not commence until the one-year claim period provided by Section 7277 has expired pursuant to the terms of this chapter. Suits for refund shall be brought in accordance with the provisions of Article 2 (commencing with Section 6931) of Chapter 7 of Part 1.

Statutory refund scheme constitutional.—The court of appeal held that the legislative scheme for refunds of unconstitutional district taxes displaced the trial court's refund plan, and that such displacement did not violate the separation of powers doctrine. *Kuykendall v. State Board of Equalization* (1994) 22 Cal.App.4th 1194.

Statutory refund scheme constitutional.—The court of appeal held that the statutory scheme for refund of unconstitutional district taxes was constitutional and that it clearly prohibited retailers not meeting its requirements from filing claims. *Cod Gas & Oil Co., Inc. v. State Board of Equalization* (1997) 59 Cal.App.4th 756.

7276. Tax credit procedures. Any taxpayers located in the jurisdiction in which an unconstitutional tax as described in subdivision (a) of Section 7275 was levied may claim a credit against their total amount of state and county sales or use tax as follows:

(a) An eligible taxpayer shall report sales and use taxes at the rates lawfully in effect in the county but may claim a credit against the total amount of state and local taxes, under rules to be promulgated by the board, in the amount of 0.75 percent. For the purpose of this section, "eligible taxpayer" means any person who resides in, or whose place of business is located in, the county in which the unconstitutional tax as described in subdivision (a) of Section 7275 was imposed, and who is required to report and pay sales tax under Chapter 2 (commencing with Section 6051) of Part 1 and any person required to report and pay or report and collect use tax under Chapter 3 (commencing with Section 6201) of Part 1.

(b) An eligible taxpayer who claims the credit provided in subdivision (a) shall remit to the board all reported tax moneys except those which represent the amount of the credit. Amounts reported, but not remitted under subdivision (a), shall be deemed to have been paid in full. Amounts not reported shall remain subject to assessment under Chapter 5 (commencing with Section 6451) of Part 1. The portion of those assessments representing this tax credit shall be paid from the reserve account provided by paragraph (2) of subdivision (d) of Section 7275.

(c) A taxpayer may not collect sales tax reimbursement pursuant to Section 1656.1 of the Civil Code nor use tax in an amount in excess of the amount required to be reported under subdivision (b) less amounts subject to

credit under subdivision (a) during the period for which a credit is allowed. A receipt for use tax issued pursuant to Section 6202 in the amount of tax actually remitted to the board under subdivision (b) shall be sufficient to relieve the purchaser for further liability for the tax computed at the reporting rate.

(d) The tax credit provided by subdivision (a) may be claimed upon notice to eligible taxpayers by the board. That notice shall provide that the credit may be claimed commencing with those taxes due on the first day of the first calendar quarter commencing more than 120 days after the effective date of the act adding this section or after the court decision described in paragraph (a) of Section 7275 becomes final and unappealable, whichever occurs later.

(e) The tax credit shall continue until the board determines that the amount of impounded revenues held by the board and available to fund the revenue losses that result from the tax credit is insufficient to fund the tax credit for another full calendar quarter. Eligible taxpayers shall continue to take the credit on their returns until notified by the board that the credit is terminated.

7277. Claim for refund procedures. (a) In the event that any tax collected under this part is determined on the basis of Section 4 of Article XIII A of the California Constitution to be unconstitutional in a final and nonappealable decision of a court of competent jurisdiction, and the revenues derived from the unconstitutional tax are held by the board in an impound account, a person who has reimbursed a retailer for that payment of that tax or a person, other than in a capacity as a retailer, who has paid that tax may file with the board a claim for refund of the unconstitutional tax in accordance with the requirements and procedures set forth in subdivision (b).

(b) (1) The claim for refund shall be in writing, shall state the specific ground upon which the claim is founded, and shall be accompanied by proof of payment of the tax to a retailer or wholesaler, including, but not limited to, a copy of an invoice, bill of sale, or purchase contract, that indicates the following:

(A) The date upon which, and place at which, the purchase occurred.

(B) A description of the property purchased.

(C) The price paid for the property.

(D) The amount of the transactions and use tax collected with respect to the purchase, or if that amount is not separately stated, the amount of the purchase and the rate of tax from which the amount of transactions and use tax may be calculated.

(2) In the case of a purchaser that has self-reported use tax to the state, the claim for refund shall also indicate the amount of use tax paid and the period for which those taxes were remitted.

(3) (A) Only a claim for refund made with respect to a single purchase or aggregate purchases of five thousand dollars (\$5,000) or more shall be eligible for refund pursuant to this section.

(B) A claim for refund shall be filed within one year of the first day of the first calendar quarter commencing after the effective date of this section or after the date upon which the court decision described in subdivision (a) becomes final and nonappealable, whichever occurs later. If that one-year period does not end on the last day of a calendar quarter, it shall end on the last day of the preceding calendar quarter or on the last day of the calendar quarter which is nearest to the date the one-year period ends.

(c) For purposes of this section, “purchaser” means any person or entity, other than in a capacity as a retailer, who purchased tangible personal property the sale or use of which was subject to the unconstitutional tax described in subdivision (a).

(d) Interest shall be paid on the refunds provided by this chapter pursuant to Section 6907.

7279. Interest on refunds; board’s costs. (a) The total amount of refunds paid under this chapter shall be the amount of the impounded revenues derived from the unconstitutional tax plus any interest earned on that amount that remains after valid claims for refund filed prior to the effective date of the act adding this chapter are paid and the reserve amount described in paragraph (2) of subdivision (d) of Section 7275 is established.

(b) The board’s actual and reasonable costs of administering refunds in accordance with this section and Section 7277, as approved by the Department of Finance, may be paid from the amount that is set aside for refunds under this chapter and may be paid prior to the payment of any claim for refund.

7279.5. Court review and procedures. A copy of the provisions of this chapter may be filed by the board with the court to demonstrate that implementation of the proposed plan of reimbursement, refund, or credit in accordance with the provisions of this chapter complies with any orders of the court requiring implementation of a refund plan by the board. Judicial notice of this chapter shall be taken by the court. In rendering a decision that the provisions of this chapter comply with any order of the court, the court shall order that any attorney’s fees and costs incurred by the parties for the benefit of the persons seeking a refund be paid from the revenues collected pursuant to that tax plus any interest earned thereon.

7279.6. Arbitrary implementation—reviewable by writ. An arbitrary and capricious action of the board in implementing the provisions of this chapter shall be reviewable by writ.

Note.—Section 3 of Ch. 1060, stated that the County of San Diego is authorized to pay all just debts and obligations that were accrued by the San Diego County Regional Justice Facility Financing Agency during the period of its existence.

Section 4 of Ch. 1060, stated the legislative findings and declarations of that act as follows: “(a) California courts of appellate jurisdiction have recently held that transactions and use taxes imposed by certain countywide taxing districts violate the California Constitution.

(b) Current law addresses refunds and overpayment of tax only on the assumption that the particular transaction in issue is not subject to tax, rather than on the premise that the tax itself is unconstitutional. Current law also provides that only persons who directly pay a tax to state taxing authorities may file claims for refund. Section 6902 of the Revenue and Taxation Code currently establishes a three-year limitation period with respect to the filing of claims for refund.

(c) As a result, under existing statutory provisions a substantial portion of the unconstitutional taxes would not be refunded to the ultimate consumers who bore the direct economic burden of paying those taxes. Moreover, in certain cases the revenues raised by the unconstitutional taxes were impounded by the levying entity and would, under the proper authority, be available for refund to the consumers who bore the economic burden of paying those taxes.

(d) Therefore, it is the intent of the Legislature in enacting this act, to alter the normal refund mechanism in the case where a transactions and use tax, imposed by a taxing district within a county pursuant to the Revenue and Taxation Code, has been found to be unconstitutional by a court of appellate jurisdiction, and the revenues derived from that tax have been impounded. The statutes added to the Revenue and Taxation Code by this act are intended to establish a comprehensive system of remedies that balances the right of persons who made purchases subject to the unconstitutional taxes to obtain a return of those taxes with the need of entities imposing valid taxes within the same county to obtain the revenues to which they are entitled. The provisions added by this act are intended to apply to all claims and actions for refund in the circumstances described herein, notwithstanding any other provision of law, but are not intended to in any way affect the normal refund statutes regarding claims and actions for refund on any other basis."

Section 5 of Ch. 1060, further stated the Legislature's findings and declarations that the system of tax credits provided by this act is adopted by the Legislature as the most efficient way to return revenues derived from the illegally collected taxes to the persons who bore the economic burden of those taxes. Nothing in this act may be construed to mean that the State of California assumes responsibility for the imposition of the illegal taxes at issue nor that there is any remedy for that illegal imposition of transactions and use taxes other than as provided in this act. There shall be no recovery against the State of California otherwise than as under this act in any action for refund of those illegally collected taxes.

Section 7 of Ch. 1060, provided, "If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable."

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